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PTO/SB/64 (10-01)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)		Docket Number (Optional) 13270:11
<p>First named inventor: Benito Fernandez</p> <p>Application No.: 09/293,536 Art Unit: Not yet assigned</p> <p>Filed: 04/15/99 Examiner: Not yet assigned</p> <p>Title: SYSTEM AND METHOD FOR CONDITION ASSESSMENT AND END OF LIFE PREDICTION</p>		
<p>Attention: Office of Petitions Assistant Commissioner for Patents Box DAC Washington, D.C. 20231</p>		
<p>NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.</p>		
<p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.</p>		
<p>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</p>		
<p>NOTE: A grantable petition requires the following items:</p> <ul style="list-style-type: none">(1) Petition fee;(2) Reply and/or issue fee;(3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and(4) Statement that the entire delay was unintentional.		
<p>1. Petition fee</p> <p><input checked="" type="checkbox"/> Small entity-fee \$40.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.</p>		
<p><input type="checkbox"/> Other than small entity - fee \$ _____ (37 CFR 1.17(m))</p>		
<p>2. Reply and/or fee</p> <p>A. The reply and/or fee to the above-noted Office action in the form of <u>Declaration and Power of Attorney</u> (identify type of reply):</p> <p><input type="checkbox"/> has been filed previously on _____.</p> <p><input checked="" type="checkbox"/> is enclosed herewith.</p> <p>B. The issue fee of \$ _____.</p> <p><input type="checkbox"/> has been paid previously on _____.</p> <p><input type="checkbox"/> is enclosed herewith.</p>		

[Page 1 of 2]

Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

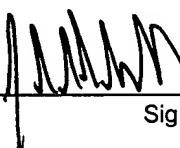
4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

5. Statement: Applicant is responding within two (2) months of the date of mailing of Notice of Termination of Proceedings, dated August 16, 2002. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

October 16, 2002

Date

Telephone
Number: (512) 482-6918


Signature

John Schell, Patent Agent

Typed or printed name

HUGHES & LUCE LLP

111 Congress Avenue, Suite 900

Address

Enclosures: Fee Payment (+ 1)

Austin, Texas 78701

- Reply
- Terminal Disclaimer Form
- Additional sheets containing statements establishing unintentional delay

Other: Preliminary Amendment; copy of Decision Granting Petition; copy of Notice of Termination of Proceedings; Transmittal letter

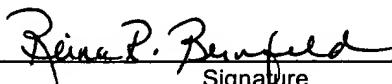
CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Box DAC, Washington, D.C. 20231.
- transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

October 16, 2002

Date


Signature

Reina R. Bernfeld

Type or printed name of person signing certificate

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In re Application of
Parlos et al.
Application No. 09/293,536
Filed: April 15, 1999
Attorney Docket No. ORAS1100-1

DECISION GRANTING PETITION

This is a decision on the Petition filed July 6, 1999, requesting that the above-identified application be accorded a filing date of April 15, 1999.

On April 15, 1999, the application was deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10. The filing included an unexecuted declaration.

On April 19, 1999, Initial Patent Examination Division mailed a Notice of Incomplete Application stating that a filing date had not been assigned to the application because pages 260-299 of the specification were missing and that filing date of the application would be the date of receipt of the missing pages of the specification.

In response on July 7, 1999, the present petition, including authorization to charge counsel's deposit account for the requisite petition fee, was filed. Petitioners argue that the specification was complete because the pages were not omitted but were inadvertently misnumbered. Petitioners request that the application be accorded a filing date of April 15, 1999.

A review of the record reveals that pages numbered 260-299 and 783 have not been located in the application file. However, the language of the specification is consistent with petitioners' assertion that no pages have been omitted, only that the pages were inadvertently misnumbered. Accordingly, the evidence is convincing that the application was complete on filing, although it contained misnumbered pages, and is entitled to a filing date of April 15, 1999.

In view of the above, the petition is granted.

The Notice mailed April 19, 1999 is hereby vacated.

Petitioners should amend the specification to renumber the pages consecutively and such amendment should be submitted prior to the first Office action to avoid delays in the prosecution of the application. See MPEP 601.01(d).

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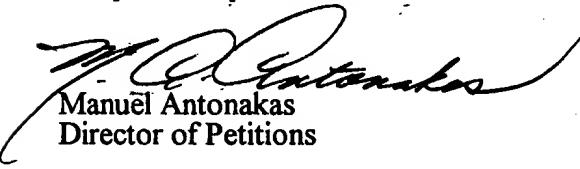
OFFICE OF PETITIONS

A further review of the record reveals that the application still does not include an oath or declaration in compliance with 37 CFR 1.63. Therefore, an oath or declaration in compliance with 36 CFR 1.63, identifying the specification to which it is directed (preferably by reference to the above-identified Application Number and filing date) is required. The surcharge under 35 CFR 1.16(e) is also required.

Applicants are given ONE MONTH from the date of this decision to file the oath or declaration and the surcharge required above in order to avoid abandonment of the application. This time period may be extended pursuant to 37 CFR 1.136 (a). The response should be directed to the attention of the Office of Initial Patent Examination.

This application is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 15, 1999, and to await the filing of the oath or declaration, and surcharge filed in response to the decision.

Telephone inquiries related to this decision should be directed to Kery Fries at (703) 308-0687.



Manuel Antonakas
Director of Petitions

kf